

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 11-0042-003
ELECTRONICALLY FILED

v.

MARCUS ALLEN,

Defendant.

**ORDER OF COURT RE: PRO SE DEFENDANT'S MOTION FOR STAY TO PROCEED
UNDER REVIEW OF SENTENCE PURSUANT TO TITLE 18 U.S.C. § 3742 AND U.S.
CODES IN THE INTEREST OF JUSTICE (DOC. NO. 1325)**

Presently before this Court is *Pro Se* Defendant's Motion for Stay to Proceed Under Review of Sentence Pursuant to Title 18 U.S.C. § 3742 and U.S. Codes in the Interest of Justice. Doc. No. 1325. Defendant contends that he was denied effective assistance of counsel because his counsel did not contest the "clearly erro[neous]" application of a career offender enhancement. *Id.* The Government opposes this motion. Doc. No. 1326.

Defendant has previously moved this Court to vacate his sentence on various grounds. Doc. Nos. 1262, 1315. In July 2014, the Court summarily dismissed a Section 2255 motion because of Plaintiff's binding appellate waiver. Doc. No. 1316. Defendant's present motion is a second or successive 2255 motion challenging his conviction and sentence and must be denied. Defendant's sentence of 96 months imprisonment, which he knowingly and voluntarily agreed to pursuant to Federal Rule of Criminal Procedure 11(c)(1)(c), will not be disturbed.

Therefore, IT IS HEREBY ORDERED this 4th day of November, 2014, that *Pro Se* Defendant's Motion for Stay to Proceed Under Review of Sentence (Doc. No. 1325) is **DENIED**. No certificate of appealability should issue because reasonable jurists would not debate this Order.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties

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